

## **DECLARATION OF SAM SILVAINÉ**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MAXWELL KADEL, *et al.*,

*Plaintiffs,*

v.

DALE FOLWELL, in his official capacity as  
State Treasurer of North Carolina, *et al.*,

*Defendants.*

No. 1:19-cv-00272-LCB-LPA

**DECLARATION OF SAM  
SILVAINE**

1. I am a plaintiff in the above-captioned action. I have actual knowledge of the matters stated in this declaration.
2. I am a 33-year-old transgender man.
3. I was designated female at birth but have a male affirmed sex. I live all aspects of my life in accordance with my gender identity.
4. I am a Licensed Clinical Mental Health Counselor and own my own counseling practice.
5. I previously worked as a North Carolina state employee at North Carolina State University ("NCSU"), where I was a post-master's counseling fellow. I was enrolled in the 80/20 NCSHP for plan years 2016, 2017, and 2018.
6. While covered by the NCSHP, I paid the same amount for coverage as other State employees on the 80/20 plan.

7. While I was working at NCSU, I lived with significant distress caused by gender dysphoria. This included distress and anxiety about how people treated me with regard to my gender, and discomfort with my physical appearance and with being seen as a woman. I felt this distress every day, almost constantly, and knew that I needed something to be different.

8. As part of my prescribed treatment for gender dysphoria, in April 2017, I began hormone therapy.

9. After struggling for so long with the feeling that my body did not match my gender identity, it was a relief to finally see myself come into alignment, at least in some regards, with my gender identity. Specifically, hormone therapy masculinized my voice, some of my secondary sex characteristics, and my physical appearance.

10. Unfortunately, hormone treatment was not sufficient to alleviate my gender dysphoria. I still felt significant, daily distress related to my female-presenting chest. As my body became more masculine as a result of hormone therapy and in greater alignment with my gender identity, my typically female chest began to be even more noticeable to me. The marked incongruence increased my gender dysphoria.

11. Not only did I feel that this aspect of my body was out of alignment with my gender identity, but it caused a risk to my safety to have a female-presenting chest when I otherwise presented as male.

12. While I used a binder to compress my chest, binding caused me physical discomfort and restricted my physical activities. I love the outdoors and believe that time in nature is essential to my mental and physical well-being. Binding made it difficult for me to spend time in nature hiking, backpacking, and climbing.

13. Eventually, in consultation with and support from my health care providers, I made the decision to seek chest surgery as part of treatment for my gender dysphoria.

14. In 2017, my NCSHP plan did not contain a categorical Exclusion for gender-confirming health care. My counseling and hormone therapy were covered. In August 2017, my surgeon and I sought preauthorization for reconstructive chest surgery.

15. The preauthorization process took until fall of 2017 and at that time, the earliest available surgery date that I could obtain was in March 2018. I accepted the March 2018 date in order to avoid an even greater delay in the treatment I required.

16. After the categorical Exclusion of gender-confirming care was reinstated on January 1, 2018, the prior authorization for my surgery was rendered invalid.

17. When I found out that my health insurance was no longer going to cover the surgery I desperately needed, I was devastated mentally and emotionally. Like other transgender North Carolina state employees who suddenly found themselves without health insurance coverage for their medically necessary health care, I was placed in a difficult position.

18. I was living with severe gender dysphoria and ultimately, I could not delay the surgery. I paid for the surgery out of pocket and underwent chest surgery on March 1, 2018. I was billed a total of \$7,100 for the surgery.

19. The surgery proved life-changing, even potentially lifesaving, for me and has significantly reduced the distress caused by my gender dysphoria. I feel that if I had not received this surgery and brought my body into alignment with my gender identity, I would be chronically suicidal.

20. I have not been reimbursed by Defendants for my surgery costs or other out-of-pocket costs I incurred due to the Exclusion of gender-confirming health care in the 2018 plan.

\* \* \*

I declare under the penalty of perjury that the foregoing is true and correct.

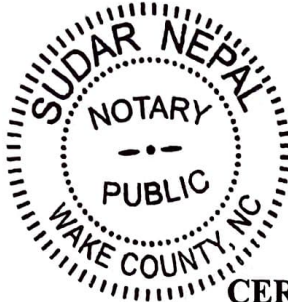
DATED: 11/22/2021

  
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Sam Silvaine



Subscribed and sworn before me, a Notary Public in and for the Wake County,

State of North Carolina, this 22 day of November, 2021.



*Sudar Nepal*  
Commission Expires: AUG 23 2026 Signature of Notary

### CERTIFICATE OF SERVICE

I certify that the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing to all registered users.

Dated: November 30, 2021

/s/ Amy E. Richardson  
Amy E. Richardson  
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